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payments or underpayments of royalties for the digital audio recording obligation occurring within that accounting period. The accrual period shall end on the date the electronic payment submitted by the remitter is received. In cases where a waiver of the electronic funds transfer requirement is approved by the Copyright Office, and royalties payments are either late or underpaid, the accrual period shall end on the date the payment is post-marked. If the payment is not received by the Copyright Office within five business days of its date, then the accrual period shall end on the date of the actual receipt by the Copyright Office.

(2) The interest rate applicable to a specific accounting period shall be the Current Value of Funds rate in accordance with the Treasury Financial Manual, at 1 TFM 6–8025.40, in effect on the first business day after the close of the filing deadline for the relevant accounting period. The interest rate for a particular accounting period may be obtained by consulting the FEDERAL REGISTER for the applicable Current Value of Funds Rate, or by contacting the Licensing Division of the Copyright Office.

(3) Interest is not required to be paid on any royalty underpayment or late payment from a particular accounting period if the interest charge is five dollars (\$5.00) or less.

(m) *Confidentiality of Statements of Account.* Public access to the Copyright Office files of Statements of Account for digital audio recording products shall not be provided. Access will only be granted to interested copyright parties in accordance with regulations prescribed by the Register of Copyrights pursuant to 17 U.S.C. 1003(c).

[59 FR 4589, Feb. 1, 1994, as amended at 64 FR 36575, July 7, 1999; 65 FR 48914, Aug. 10, 2000; 70 FR 30367, May 26, 2005; 70 FR 38022, July 1, 2005; 71 FR 45740, Aug. 10, 2006; 72 FR 33692, June 19, 2007; 73 FR 29073, May 20, 2008]

### **§ 201.29 Access to, and confidentiality of, Statements of Account, Verification Auditor's Reports, and other verification information filed in the Copyright Office for digital audio recording devices or media.**

(a) *General.* This section prescribes rules covering access to DART State-

ments of Account, including the Primary Auditor's Reports, filed under 17 U.S.C. 1003(c) and access to a Verifying Auditor's Report or other information that may be filed in the Office in a DART verification procedure as set out in § 201.30. It also prescribes rules to ensure confidential disclosure of these materials to appropriate parties.

(b) *Definitions.* (1) *Access* includes inspection of and supervised making of notes on information contained in Statements of Account including Primary Auditor's Reports, Verification Auditor's Reports, and any other verification information.

(2) *Audit and Verification Information* means the reports of the Primary Auditor and Verifying Auditor filed with the Copyright Office under §§ 201.28 and 201.30, and all information relating to a manufacturing or importing party.

(3) *DART Access Form* means the form provided by the Copyright Office that must be completed and signed by any appropriate party seeking access to DART confidential material.

(4) *DART confidential material* means the Quarterly and Annual Statements of Account, including the Primary Auditor's Report that is part of the Annual Statements of Account, and the Verifying Auditor's Report and any other verification information filed with the Copyright Office. It also includes photocopies of notes made by requestors who have had access to these materials that are retained by the Copyright Office.

(5) *Interested copyright party* means a party as defined in 17 U.S.C. 1001(7).

(6) *A Representative* is someone, such as a lawyer or accountant, who is not an employee or officer of an interested copyright party or a manufacturing or importing party but is authorized to act on that party's behalf.

(7) *Statements of Account* means Quarterly and Annual Statements of Account as required under 17 U.S.C. 1003(c) and defined in § 201.28.

(c) *Confidentiality.* The Copyright Office will keep all DART confidential materials in locked files and disclose them only in accordance with this section. Any person or entity provided with access to DART confidential material by the Copyright Office shall receive such information in confidence

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and shall use and disclose it only as authorized in 17 U.S.C. 1001 *et. seq.*

(d) *Persons allowed access to DART confidential material.* Access to DART Statements of Account filed under 17 U.S.C. 1003(c) and to Verification Auditor's Reports or other verification information is limited to:

(1) An interested copyright party as defined in § 201.29(b)(5) or an authorized representative of an interested copyright party, who has been qualified for access pursuant to paragraph (f)(2) of this section;

(2) The Verifying Auditor authorized to conduct verification procedures under § 201.30;

(3) The manufacturing or importing party who filed that Statement of Account or that party's authorized representative(s); and

(4) Staff of the Copyright Office or the Library of Congress who require access in the performance of their duties under title 17 U.S.C. 1001 *et seq.*;

(e) *Requests for access.* An interested copyright party, manufacturing party, importing party, representative, or Verifying Auditor seeking access to any DART confidential material must complete and sign a "DART Access Form." The requestor must submit a copy of the completed DART Access Form to the Licensing Specialist, Licensing Division. The form must be received in the Licensing Division at least 5 working days before the date an appointment is requested. The form may be faxed to the Licensing Division to expedite scheduling, but a copy of the form with the original signature must be filed with the Office.

(1) A representative of an interested copyright party, a manufacturing party or an importing party shall submit an affidavit of his or her authority (e.g., in the form of a letter of authorization from the interested copyright party or the manufacturing or importing party).

(2) An auditor selected to conduct a verification procedure under § 201.30 shall submit an affidavit of his or her selection to conduct the verification procedure.

(3) DART Access Forms may be requested from, and upon completion returned to: Library of Congress, Copyright Office, Licensing Division, 101

Independence Avenue, SE, Washington, DC 20557-6400. They may also be requested or submitted in person at the Licensing Division, Room LM-504, James Madison Memorial Building, First and Independence Avenue, SE., Washington, DC, between 8:30 a.m. and 5 p.m.

(f) *Criteria for access to DART confidential material.* (1) A Verifying Auditor will be allowed access to any particular Statement of Account and Primary Auditor's Report required to perform his or her verification function;

(2) Interested copyright parties as defined in paragraph (b)(5) of this section will be allowed access to any DART confidential material as defined in paragraph (b)(4) of this section for verification purposes, except that no interested copyright party owned or controlled by a manufacturing or importing party subject to royalty payment obligations under the Audio Home Recording Act, or who owns or controls such a manufacturing or importing party, may have access to DART confidential material relating to any other manufacturing or importing party. In such cases, a representative of the interested copyright party as defined in paragraph (b)(6) of this section may have access for that party, provided that these representatives do not disclose the confidential information contained in the Statement of Account or Primary Auditor's Report to his or her client.

(3) Access to a Verifying Auditor's Report and any other verification material filed in the Office shall be limited to the interested copyright party(s) requesting the verification procedure and to the manufacturing or importing party whose Statement of Account was the subject of the verification procedure.

(g) *Denial of access.* Any party who does not meet the criteria described in § 201.29(f) shall be denied access.

(h) *Content of DART Access Form.* The DART Access Form shall include the following information:

(1) Identification of the Statement of Account and Primary Auditor's Report, the Verification Auditor's Report and other verification materials, or notes prepared by requestors who earlier accessed the same items, to be

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accessed, by both the name (of the manufacturing party or importing party) and the quarter(s) and year(s) to be accessed.

(2) The name of the interested copyright party, manufacturing party, importing party, or verification auditor on whose behalf the request is made, plus this party's complete address, including a street address (not a post office box number), a telephone number, and a telefax number, if any.

(3) If the request for access is by or for an interested copyright party, a statement indicating whether the copyright party is owned or controlled by a manufacturing or importing party subject to a royalty payment obligation, or whether the interested copyright party owns or controls a manufacturing or importing party subject to royalty payments.

(4) The name, address, and telephone number of the person making the request for access and his/her relationship to the party on whose behalf the request is made.

(5) The specific purpose for the request for access, for example, access is requested in order to verify a Statement of Account; in order to review the results of a verification audit; for the resolution of a dispute arising from such an audit; or in order for a manufacturing or importing party to review its own Statement of Account, Primary Auditor's Report, Verification Auditor's Report, or related information.

(6) A statement that the information obtained from access to Statements of Account, Primary Auditor's Report, Verification Auditor's Report, and any other verification audit filings will be used only for a purpose permitted under the Audio Home Recording Act (AHRA) and the DART regulations.

(7) The actual signature of the party or the representative of the party requesting access certifying that the information will be held in confidence and used only for the purpose specified by the Audio Home Recording Act and these regulations.

[60 FR 25998, May 16, 1995, as amended at 63 FR 30635, June 5, 1998; 64 FR 36575, July 7, 1999; 73 FR 37839, July 2, 2008]

### § 201.30 Verification of Statements of Account.

(a) *General.* This section prescribes rules pertaining to the verification of information contained in the Statements of Account by interested copyright parties pursuant to section 1003(c) of title 17 of the United States Code.

(b) *Definitions*—(1) *Annual Statement of Account*, *generally accepted auditing standards (GAAS)*, and *primary auditor* have the same meaning as the definition in § 201.28 of this part.

(2) *Filer* is a manufacturer or importer of digital devices or media who is required by 17 U.S.C. 1003 to file with the Copyright Office Quarterly and Annual Statements of Account and a primary auditor's report on the Annual Statement of Account.

(3) *Interested copyright party* has the same meaning as the definition in § 201.29 of this part.

(4) *Verifying auditor* is the person retained by interested copyright parties to perform a verification procedure. He or she is independent and qualified as defined in paragraphs (j)(2) and (j)(3) of this section.

(5) *Verification procedure* is the process followed by the verifying auditor to verify the information reported on an Annual Statement of Account.

(c) *Purpose of verification.* The purpose of verification is to determine whether there was any failure of the primary auditor to conduct the primary audit properly or to obtain a reliable result, or whether there was any error in the Annual Statement of Account.

(d) *Timing of verification procedure*—(1) *Requesting a verification procedure.* No sooner than three months nor later than three years after the filing deadline of the Annual Statement of Account to be verified, any interested copyright party shall notify the Register of Copyrights of its interest in instituting a verification procedure. Such notification of interest shall also be served at the same time on the filer and the primary auditor identified in the Annual Statement of Account. Such notification shall include the year of the Annual Statement of Account to be verified, the name of the filer, information on how other interested copyright parties may contact